

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KATHERINE WHITED

Plaintiff

CIVIL ACTION-LAW

vs.

THE NEW CAFÉ AT GREYSTONE
GARDENS and DOMINIC SAADI

Defendants

JURY TRIAL DEMANDED

No.:

ELECTRONICALLY FILED

NOTICE OF REMOVAL

Defendants, THE NEW CAFÉ AT GREYSTONE GARDENS and DOMINIC SAADI, by and through their counsel, Oliver, Price & Rhodes, hereby give notice of the removal to this Court of a state civil action pending in the Court of Common Pleas of Lackawanna County, Pennsylvania, docketed at 2018-CV-4535, and in support thereof aver the following:

1. A civil action was filed against Defendants, the New Café at Greystone Gardens and Dominic Saadi, by Plaintiff, Katherine Whited, on August 21, 2018.
2. This action is pending in the Court of Common Pleas of Lackawanna County, docketed at 2018-CV-4535.

3. Section 1441 of Title 28 of the United States Code permits removal of any civil action brought in a State court to a federal district Court if the district court would have original jurisdiction. 28 U.S.C. § 1441(a).
4. Section 1331 of Title 28 of the United States Code gives federal district courts original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.
5. The person asserting jurisdiction bears the burden of showing that the case is properly before the court at all stages of the litigation. *Packard v. Provident Nat'l Bank*, 994 F.2d 1039, 1045 (3d Cir. 1993).
6. Plaintiff brought two (2) counts against Defendants as a result of alleged unlawful employment practices.
7. Both counts allege in part that Defendants violated the Fair Labor Standards Act, a federal statute. *See* 29 U.S.C. § 201 *et seq.*
8. Had this action been brought here originally, this Court would have had original jurisdiction over the subject matter of Counts I and II of Plaintiff's Complaint by virtue of 28 U.S.C. § 1331.
9. This Court has supplemental jurisdiction over the state law portions of Counts I and II of Plaintiff's Complaint by virtue of 28 U.S.C. § 1367, which provides that a district court "shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that

they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367.

10. The state law claims in this matter relate to the alleged unfair employment practices of Defendants and are brought pursuant to laws similar to the federal Fair Labor Standards Act, including the Pennsylvania Wage Payment and Collection Act and the Pennsylvania Minimum Wage Act.

11. The state court wherein this action was originally filed is located in Scranton, Lackawanna County, Pennsylvania, which is within the Middle District of Pennsylvania.

12. The Complaint in this action was served upon Defendants on August 28, and the instant Notice of Removal is filed within thirty (30) days thereof as required under 28 U.S.C. § 1446(b).

13. A copy of the Complaint is attached as Exhibit “A”. No other process, pleadings, or orders have been served upon Defendants.

14. The statutory requirements having been met, this state action is properly removed to this Court.

Respectfully submitted,

/s/ Joseph A. O'Brien
Joseph A. O'Brien, Esq.
Attorney I.D. No.: 22103

/s/ Jenna Kraycer Tuzze

Jenna Kraycer Tuzze, Esq.
Attorney I.D. No.: 324116
Oliver, Price & Rhodes
1212 South Abington Road
P.O. Box 240
Clarks Summit, PA 18411
Phone: (570) 585-1200
Fax: (570) 585-5100
Email: jaob@oprlaw.com
Attorney for Defendants

CERTIFICATE OF SERVICE

I, **JOSEPH A. O'BRIEN, ESQUIRE**, of Oliver, Price & Rhodes, hereby certify that on the 14th day of September, 2018, I served a true and correct copy of the foregoing **NOTICE OF REMOVAL OF ACTION** pursuant to the Federal Rules of Civil Procedure, by mailing the same to Plaintiff's counsel of record, via United States First Class Mail, postage pre-paid, addressed as follows:

Cynthia L. Pollick, Esq.
363 Laurel Street
Pittston, PA 18640

/s/ Joseph A. O'Brien
Joseph A. O'Brien, Esq.